Exhibit B

Terence 🛡 03/27/2023 1:41 AM
@everyone
Link to the DMCA takedown from Nexon
https://drive.google.com/file/d/1Y2PJx5am6k3quSuXWe6cw-MuOvAPn4hl/view

Link to our response to Exhibit D of "identical" file names
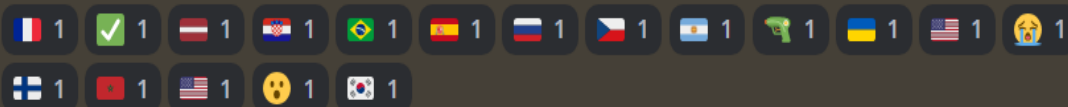https://docs.google.com/spreadsheets/d/1hzJwYlZjj8VT39dEErQBX_4DGt-gZ0MnlSI_keyXO4I/edit#gid=0

Coming soon
- Since this issue is newsworthy in Korea we will be preparing the response in Korean.
- Response from our concept artist about the copyrighted character design.
- Source list for the assets purchased from the Unreal Marketplace.
- Videos showing key milestone builds from our first playtest builds until the more recent playtests.
- Git logs and file lists for the first year of development.

(edited)

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We are IRONMACE Co., Ltd. ("Ironmace"), a South Korean independent video game developer known for developing the PC game Dark and Darker. This letter is intended to address the serious allegations of Copyright Infringement and Misappropriation of Trade Secrets that have been levied against us in the recent DMCA "Takedown Notice" from NEXON Korea Corporation ("Nexon").

Nexon states that according to their investigation, "*Dark and Darker* appears to have been built and developed using trades secrets and copyrighted information, copied and stolen from Nexon." We would like to show that these allegations are baseless. No copyrighted materials or misappropriated trade secrets from Nexon were used by IRONMACE.

In the takedown notice, Nexon lists their registered copyrights pertaining to the *P3 Project* which were registered just last month, more than 6 months after *Dark and Darker* was revealed to the public, as the subject of the alleged infringement.

The first point of contention appears, where they accuse one of our members of acquiring and transferring key assets to his personal server "without authorization", resulting in an unlawful transfer. Here is our response to this claim:

Due to a mandatory remote work policy implemented by Nexon in response to the COVID-19 pandemic, the accused member received multiple written authorizations from executive members at Nexon from 2020 to 2021, allowing him to utilize an external personal server to improve the performance of his team (e.g., version control, build machine, and dedicated server). After utilizing the personal servers for almost a year, the accused member asked the leadership if it was ok to continue using his personal servers. The leaders told him to refrain from using the personal servers. The accused member agreed to takedown the servers as long as he could maintain the performance of his team by having his programming team come to the office bypassing the companywide remote work policy.

The accused member initiated the takedown of the personal servers but, due to the uncertainty of sporadic Covid waves, taking down the server in a quick and exhaustive manner was not a high priority. As a result, some automated scripts related to the build machine were left running on his personal server at this time. When the buildings next to his office were shut down due to confirmed covid cases he took a risk and fully set up his personal servers to aid in development. Since all company machines were monitored using a companywide endpoint solution, the existence and usage of his personal servers, ones that were subject of approvals and re-approvals, must be reasonably known to Nexon over this multi-month period of development. Not a single warning was received from that security team so it was easy to construe it as acknowledgement that his actions were acceptable, otherwise it would mean that Nexon would be failing at taking reasonable measures to maintain the confidentiality of their assets. (edited)

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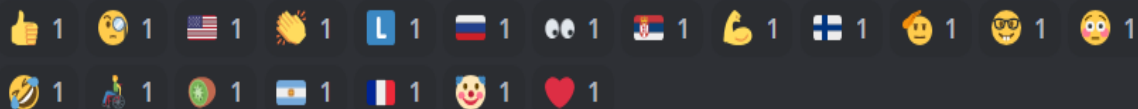
The accused member decided to leave Nexon in June 2021 due to a breakdown of trust with one of his superiors and due to the uncertain atmosphere at the company. His prior project was unceremoniously canceled after a well-received milestone presentation in 2020 and numerous other projects around him were also cancelled during this time.

Having worked closely with his development team, he informed them about his plans to leave Nexon. He made it clear that the reason for leaving was due to the uncertain atmosphere fostered at the company. He also stated that he'd welcome the team's talents for his next endeavor. He made it clear that he'd likely pursue a project in the same genre as P3 Project, but explicitly clarified that any development would be made completely from scratch. This fact has been noted, in witness testimony collected by the police, investigating a separate personal lawsuit filed against the accused member, by Nexon.

Shortly after Nexon's leadership became aware of the accused member's plans to leave the company, instead of trying to resolve it a professional manner, they abruptly sent the Internal Audit team and accused him of stealing files, despite having observed his personal server being used without notice for several month. Due to harassment and the lack of respect from the company and after consulting with his lawyers, he concluded that his private information on his private servers was not subject to any record so he deleted his information to ensure his privacy.

He was fired based on these unproven claims and subsequently sued by the company a month later, with liens placed on his home and other assets. His personal lawsuit is still ongoing, and the claims of stealing or misappropriating these files have not been substantiated. He has been fully cooperative with the investigation from the police and has been the target of multiple search warrants. Ironmace has also been the subject of multiple search warrants during this investigation and has been as accommodating as possible to speed up this process and prove no wrongdoing. The fact that nine of the twenty-plus P3 Project team members voluntarily left Nexon, out of their own free will to join Ironmace - despite the inherent risks of joining a startup - shows the trust that the accused member instills in his peers.

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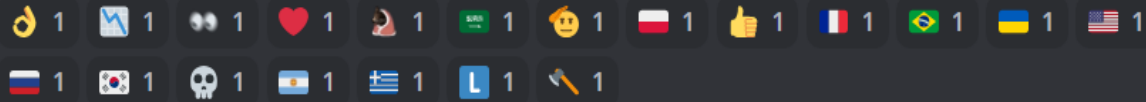
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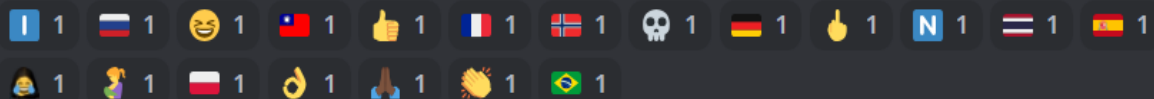
As a secondary contention, the takedown notice submitted by Nexon then alleges that the founder of Ironmace, Terence Park, knew that the accused member used stolen trade secrets and copyrighted material to develop *Dark and Darker* to knowingly benefit oneself and Ironmace, basing this claim purely on past association and without offering any proof. Here is our response to this claim:

The founder of the company has no knowledge that any stolen trade secrets or copyrighted material were ever used to develop *Dark and Darker*. In fact, the founder has on multiple occasions told members of his team that they must be extra diligent in ensuring that everything is done by the books in order to uphold the vision and branding of the company.

The takedown notice then states that Nexon's P3 Game has never been disclosed to a third party during this period in an attempt to strengthen their claims that the only way to come up with a similar idea was to have stolen it. However, this claim can be clearly proven false. Nexon disclosed P3 in a media showcase in August 2021 to members of the gaming media who then wrote about it in multiple blogs and articles as shown below:

1. https://www.gematsu.com/2021/08/nexon-showcases-12-new-games-project-magnum-project-hp-mabinogi-mobile-more
2. https://pdf.irpocket.com/C3659/GbYe/dYzj/ICN2.pdf
3. https://www.donga.com/news/It/article/all/20210805/108384593/1

The takedown notice then states that no other games had the same "concept, genre, and plot" as the P3 Game even though none of the contents of these categories are original and other games like *Expedition Agartha* have all three that are similar.

The notice then states that within a mere ten months of forming Ironmace, its demo/test version of *Dark and Darker* became publicly available in August 2022. The notice states that "it is impossible for Ironmace to have developed *Dark and Darker* in such a short timeframe without using Nexon's trade secrets and confidential information", again without offering any proof. Here is our response to this claim:

Just because it may be difficult for a large bureaucratic company such as Nexon, to develop games in such a short time frame does not mean it is impossible for another studio big, small, new or old, to develop games quickly.

Firstly, Ironmace started with a larger team at the beginning of development. Secondly, the starting team composition was better set for quick development with a heavy focus on programming. Thirdly, the *P3 Project* team did not have a server programmer while Ironmace made sure to have one from the very start due to the importance of building a stable server architecture.

Fortunately, we have evidence we will be releasing soon that shows exactly how we built our game so quickly and efficiently. Firstly, we rely on utilizing as many store-bought assets as possible for use as 3D game objects, as that comprises the bulk of the cost and time in game development. We will soon release a list of the store-bought assets that were used in the development of *Dark and Darker* to show how almost all 3D assets were purchased from the Unreal Marketplace. We also have numerous videos providing evidence of key milestone builds from our early internal playtests up until our most recent tests showing our progress and how we built the game from the ground up that we will soon start to post online. For the more technically minded, we will also soon share the logs and file lists from our git version control repository from the very first push up until when we added our in-house anti-cheat implementation (about a years' worth of development logs) so other developers can easily see the progression of our game and how unlikely it is to sneak in stolen code and assets. Since key members of Ironmace were also on the development team of the *P3 Project* and know how quickly and haphazardly the *P3 Project* was built, if anything, using assets, design, and code built for that project would have been a hinderance rather than a benefit to the development of *Dark and Darker*.

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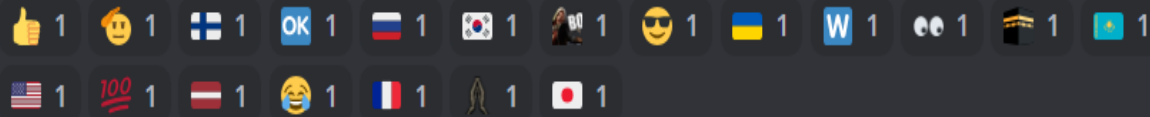
The notice then states that Nexon conducted a comparative analysis of *Dark and Darker* and the P3 Game. They state that they found over 2,338 resources with identical file names between the two games proving that "the number of identical file names is too substantial for mere coincidence." Here is our response to this claim:

They were kind enough to list all the identical files names after removing the ones that are similar due to the usage of the same engine and appended it to Exhibit D of their takedown claim. Of the remaining 1032 resources listed in Exhibit D with identical names, 950 are due to being identical store-bought assets and plug-ins for the Unreal Engine. The remaining 82 identical resource files (actually 41 resources because the file names are duplicates with variations in the extension names) can be easily explained due to recommended file-naming conventions and general conceptual names that would be similar in a typical First-Person Fantasy game. We would welcome and be happy to do a comparative analysis of the actual content of these identically named files through a 3rd party auditor, if Nexon agrees to provide their files. We have provided a list of sources for all the "identical" resources listed by Nexon.

The notice then states the similarities in the character design and other setting and structural designs of the two games. Our response is that both games rely on very traditional classic fantasy tropes, none of which are original and can be found in numerous other fantasy games, including the listed character classes and the torch mechanics. Both games being in the same genre of a classic fantasy dungeon crawler can explain these similarities.

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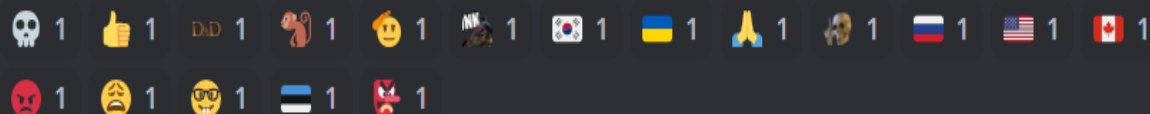
The notice then states that "Even if, as Ironmace has argued in media statements, the graphic assets (including character designs) were purchased from the "Unreal Marketplace," it does not explain the numerous specific aspects of the character in *Dark and Darker* characters that are different from that of the graphic assets available for purchase on Unreal Marketplace, but are identical to the aspects of the character found in the *P3 Game*." Here is our response to this claim:

For clarity, much of the 3D graphic assets were purchased from the "Unreal Marketplace," but many 2D graphic elements including character concept art and UI were created in-house. The character concept artworks are based on very traditional fantasy subject matter and tropes which explains their similarities. Furthermore, the character concept artwork for both games were created by the same individual explaining the similarities in style. We will soon link a separate document from our concept artist explaining the core differences in the artwork and why our artwork is not an infringement of the characters in *P3 game*. The document will display other concept artwork found through a google image search for the same subject matter showing the similarities due to the common fantasy tropes.

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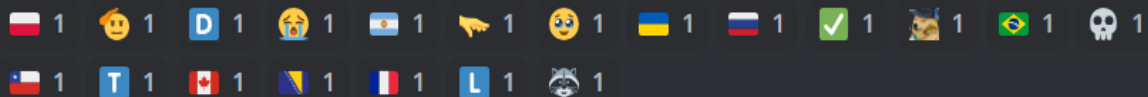
The notice then states that the level and extent of the two games' key concepts, genre, and storyline "make it clear that Ironmace must have used Nexon's trade secrets to create *Dark and Darker*." Again, both the concepts and storyline are purposely traditional and generic and can be found in many fantasy games including pen and paper RPGs, which was one of the main inspirations for *Dark and Darker*. The premise of adventurers delving into dungeons full of monsters and treasures in their quest to seek riches, is so generic and common that it can be broadly be applied to numerous other fantasy games. Just for fun we asked ChatGPT to come up with a description for a generic PvP Dungeon Crawling game that created an eerily similar game description below:

--------------------------------Content from ChatGPT--------------------------------

Certainly! Here's a generic game description for a PvP dungeon crawling game:
In this PvP dungeon crawling game, players compete against each other in a dangerous and mysterious dungeon filled with traps, puzzles, and monsters.

Players choose their characters from a variety of classes, each with unique abilities and playstyles. They must navigate through the dungeon, fight off waves of monsters, and solve puzzles to progress deeper into the dungeon.

However, in addition to battling monsters, players must also face off against each other in intense PvP combat. They can attack other players to steal their loot or gain an advantage, but they must also be careful not to get caught off guard by enemy players.

Along the way, players will collect loot, weapons, and magical items that will help them in their quest. They can also trade items with other players or buy and sell items from NPC shops.

The gameplay involves strategic decision-making, as players must decide when to attack other players and when to focus on advancing through the dungeon. They must also manage their resources carefully, as they have a limited supply of weapons, spells, and health.

The ultimate goal of the game is to reach the deepest level of the dungeon and defeat the final boss, all while outsmarting and defeating other players. This game offers an exciting and competitive experience for players who enjoy both PvE and PvP gameplay.

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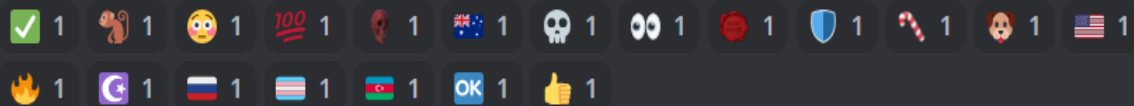
Finally, the shared characteristics of the two games that the notice points out in exhibit E are again easily explained by conventions found commonly in the shared game genres and are found in many other similar games.

Given the information presented, it is difficult to believe that Nexon, in good faith, could reasonably believe that Ironmace has infringed on the copyrights for their *P3 project*. They also provide no actual evidence that Ironmace misappropriated Nexon's trade secret information in the creation of *Dark and Darker*, but instead base it on circumstantial claims. Finally, they accuse Ironmace of a flagrant breach of Valve's SSA and SOCR, restricting our ability to provide our game to players on the largest mainstream PC game platform and severely obstructing our ability to do business. Ironmace requests that Nexon renounce their baseless claims. If they would like to compete on merit, we welcome Nexon to promptly accommodate the comparison of source code, custom assets, and design documents with the police to quickly and decisively put an end to this matter.

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